



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,945	07/18/2003	Douglas Hansen	00-1824	4450
7590	09/27/2004		EXAMINER	
Kaardal & Associates, PC Attn: Ivar M. Kaardal Suite 250 3500 South First Ave. Circle Sioux Falls, SD 57105-5802			CANFIELD, ROBERT	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 09/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	K
	10/622,945	HANSEN ET AL.	
	Examiner Robert J Canfield	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/18/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Art Unit: 3635

1. This is a first Office action on the merits for application serial number 10/622945 filed 07/18/03. Claims 1-9 are pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by US 2003/0010371A1 to Langley.

Langley provides a shelter adapted to rest on seat 32 having front and top wall 16, side walls 24 and rear walls 23, ventilation holes (page 3) and transparent panels/windows 28.

4. Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Re. 29,264 to Woodward.

Woodward provides a shelter comprised of a housing adapted to slip over a user having walls, a viewing opening and a window panels 46 coupled to an upper edge of the viewing opening and provided with first and second fastener tabs 48 (col. 3, line 19).

Art Unit: 3635

5. Claims 1-3, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,491,781 to Reese.

A shelter comprised of a housing having front/top/back and side walls is provided which is adapted to slip over a user and rest on a seat (figure 2). The front wall is provided with plural windows 44. Walls 38 are transparent.

6. Claims 1-3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,052,251 to De Jean Jr.

A shelter comprised of a housing having front/top/back and side walls is provided which is adapted to slip over a user and rest on a seat (figure 2). The walls are transparent.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,052,251 to De Jean Jr. in view of U.S. Patent 4,716,918 to Hayashida et al.

De Jean provides a shelter comprised of a housing having front/top/back and side walls which is adapted to slip over a user and rest on a seat (figure 2). The walls are transparent.

Hayashida teaches that it was known at the time of the invention to provide ventilation holes 34 proximate the top of a shelter. It would have been obvious at the time of the invention to one having ordinary skill in the art that the side walls of De Jean could have been provided with ventilation holes proximate the top thereof. It would have been obvious because it has been suggested in the art by Hayashida to be desirable to provide ventilation within a shelter.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,052,251 to De Jean Jr. in view of U.S. Patent Re. 29,264 to Woodward.

De Jean provides a shelter comprised of a housing having front/top/back and side walls which is adapted to slip over a user and rest on a seat (figure 2). The walls are transparent.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the viewing opening shown in figure 10 of De Jean could have been provided with a window panel coupled to an upper edge thereof which could be fastened at its lower edge with fastener tabs as taught by Woodward. It would have been obvious so that the viewing opening could be closed and thus shield the user from the elements.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,052,251 to De Jean Jr. in view of U.S. Patent 4,716,918 to Hayashida et al. further in view of U.S. Patent Re. 29,264 to Woodward

De Jean provides a shelter comprised of a housing having front/top/back and side walls which is adapted to slip over a user and rest on a seat (figure 2). The walls are transparent.

Hayashida teaches that it was known at the time of the invention to provide ventilation holes 34 proximate the top of a shelter. It would have been obvious at the time of the invention to one having ordinary skill in the art that the side walls of De Jean could have been provided with ventilation holes proximate the top thereof. It would have been obvious because it has been suggested in the art by Hayashida to be desirable to provide ventilation within a shelter.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the viewing opening shown in figure 10 of De Jean could have been provided with a window panel coupled to an upper edge thereof which could be fastened at its lower edge with fastener tabs as taught by Woodward. It would have been obvious so that the viewing opening could be closed and thus shield the user from the elements.

11. The examiner acknowledges receipt of the IDS filed 07/18/03. An initialed copy of the 1449 form is attached.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 703-308-2482. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635



09/22/04